

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
GENEVIEVE ZIETEK,

Plaintiff,

-against-

PINNACLE NURSING AND REHAB CENTER,

Defendant.

ANALISA TORRES, District Judge:

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21 Civ. 5488 (AT) (JLC)

ORDER

Before the Court is the Report and Recommendation (“R&R”), ECF No. 100, from the Honorable James L. Cott, recommending that Defendant’s renewed motion to dismiss the complaint be granted.

On June 17, 2021, Plaintiff, an 82-year-old woman, brought this action, alleging, *inter alia*, physical abuse and theft by Defendant and its staff members. ECF No. 1. On August 18, 2021, Defendant moved to dismiss the complaint under Federal Rules of Civil Procedure 12(b)(1), 12(b)(2), and 12(b)(6). ECF No. 15. On March 2, 2022, the Court denied Defendant’s motion without prejudice to renewal. ECF No. 42. On February 13, 2023, Defendant renewed its motion to dismiss. ECF No. 87.

The Court referred Defendant’s renewed motion to Judge Cott. ECF No. 96. After careful consideration, Judge Cott issued the R&R, proposing that the Court grant Defendant’s motion, dismiss Plaintiff’s case in its entirety without prejudice if it is for lack of jurisdiction, or with prejudice if it is for failure to state a claim on which relief can be granted. R&R at 16. Despite notification of the right to object to the R&R, no objections were filed, and the time to do so has passed. *Id.*; see Fed. R. Civ. P. 72(b)(2). When no objection is made, the Court reviews the R&R for clear error. See *Whitley v. Bowden*, No. 17 Civ. 3564, 2019 WL 1953941, at *1 (S.D.N.Y. May 1, 2019) (collecting cases). The Court finds no clear error.

Accordingly, the Court ADOPTS Judge Cott’s R&R in its entirety. Pursuant to Federal Rule of Civil Procedure 12(b)(1), Plaintiff’s complaint is dismissed, without prejudice, for lack of subject matter jurisdiction. Defendant’s motion to dismiss is, therefore, GRANTED. The Clerk of Court is directed to enter judgment consistent with this order and the R&R, and close the case.

SO ORDERED.

Dated: February 7, 2024
New York, New York


ANALISA TORRES
United States District Judge